

## **F. PUBLIC SOLID WASTE DEBT**

In the early 1970's there were numerous poorly located, designed and operated sanitary landfills. The burden to develop needed environmentally sound disposal facilities was placed on the counties in the 1975 modification to the Solid Waste Management Act. Ultimately the counties and their authorities sited 31 new long-term solid waste facilities consisting of 12 modern double lined landfills, 5 energy recovery incinerators and 14 transfer stations. The amount of public debt associated with these facilities was close to 2 billion dollars. This amount of debt was incurred on the premise that waste could be "flowed" to the facilities thereby assuring adequate revenues to make the required debt service payments. This changed with the 1997 "Atlantic Coast" decision (see section on legal history). With the striking down of our waste flow regulations, facilities had to charge competitive rates to attract sufficient waste. Tipping fees that were once commonly over \$100 fell to the \$50 to \$60 per ton range soon after the "Atlantic Coast" decision, though as of January 2005 have edged up to the \$60 to \$80 per ton range. Basically once the initial lowering of the tipping fees occurred, rates have remained relatively stable since then. A few counties have re-instituted flow control and are able to have higher tipping fees, however, not all of the debt service is being collected even in some of these counties. There is a concern that the higher the tipping fee more customers are likely to avoid the system, creating a significant enforcement problem. Therefore, even the waste flow counties are generally trying to achieve a near competitive tip fee. There are a number of counties that are virtually collecting no funds to cover their debt, the tip fee is basically just covering current operational costs. The term "stranded debt" has been utilized to recognize that some counties and authorities are unable to collect sufficient revenues to cover all their debt service payments by charging a competitive tip fee.

While most of the counties had some sort of debt service contingency fund, it did not take long for many of the counties to need assistance in making debt payments. As a result the state appropriated \$20 million annually from FY 98 to FY 01 to provide an \$80 million dollar default "safety net" to subsidize county or county authority debt service payments for solid waste debt. These appropriations were intended to provide short-term financial assistance to select counties and authorities and that had difficulty making debt payments through the collection of their respective tip fees.

The total amount of state assistance to help with the solid waste debt was supplemented through a Public Question approved by New Jersey voters in November 1998. In 1980 and 1985, Bond Act approval was gained in the aggregate amount of \$168 million toward assisting counties in developing long term solid waste disposal facilities. Public Question #3 allowed the State to forgive approximately \$107 million in prior solid waste Bond Act loans provided to eight count governments. The balance of historic solid waste Bond Act funds, which total \$61 million, has been used, along with the referenced \$80 million in General Fund allocations to partially address relief to the counties unable to make debt service payments and to ensure that local bonding capabilities for important public works projects are not compromised. Appendix table F-1 shows a summary of the amount of debt assistance given as of December, 2003. As can be seen from that table the total amount of outstanding debt is approximately \$932 million.

There has been significant debate over the past several years, since the "Atlantic Coast " decision how to solve the "stranded debt" problem. Unfortunately one of the realities of the solid waste planning that occurred over the past 25 years is that there were 21 distinct systems developed over different time frames. With 21 distinct systems in place, it had not been possible to identify a "one size fits all" legislative strategy for future solid waste planning and long-term debt retirement. There had been two distinct views on how best to move forward in the wake of "Atlantic Coast". One set of legislative proposals have called for what amounts to a statewide "debt averaging" where all citizens are asked to contribute to the outstanding debt equally, notwithstanding the amount of debt actually incurred within their own county. These same proposals call for complete and immediate dismantling of the county planning system, as well as varying levels of State assistance in paying the county debt, including one proposal where the State would pay off all the solid waste debt. These proposals raised serious equity issues in counties than either had no solid waste debt, or had sufficient revenues on an ongoing basis to make their necessary debt payments. The alternative view, which the State had favored, advocated a gradual phase-out of the existing system and a migration to a free market economy. This would have been accomplished through legislation to clarify

recognition of environmental investment cost and non-discriminatory procurement strategies as interim measures for the duration of outstanding debt, with the State continuing to provide some level of financial assistance. Neither of these alternatives was able to garner enough support to move ahead.

Finally, in a somewhat different direction, legislation had been passed at the end of 2001 to help reduce the debt burden of the counties. Amendments to the Economic Development Authority (EDA) funding statute would have allowed for refinancing of the debt to occur, with the state being responsible for a portion of the county debt. The statute allowed the state to be responsible for up to 50% of the debt, except where there was a regional facility involved, then the maximum host county share is determined by the tonnage percentage to be provided by the host county. Regulations to provide for the implementation of this program were proposed on July 1, 2002 and were adopted in October 2002. In accordance with provisions in the act, the refinancing had to be accomplished by December 31, 2002. Thirteen counties had applied to be part of this program, and they are: Atlantic, Burlington, Camden, Essex, Gloucester, Hudson, Mercer, Monmouth, Passaic, Salem, Sussex, Union and Warren. Ultimately it was determined that it made more fiscal sense to continue to help the counties that need it in the short term, than to increase the fiscal burden over the long term, thus the refinancing was not accomplished by the required date. Therefore, the state has to go back to assisting the counties on a piecemeal basis, when debt service funds are needed, and when state funds are available.

Summary of County Solid Waste Debt Assistance										
County	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 (thru 12/04)	Total (thru 12/04)	Loans Forgiven	Debt Outstanding (as of 4/1/02)
Atlantic	1,100,000	1,400,000	11,821,222	9,386,000	5,630,747	5,630,747	0	34,968,716	6,750,000	71,400,000
Bergen	25,000,000	0	0	11,500,000	0	0	0	36,500,000	0	96,200,000
Burlington	0	0	7,500,000	1,700,000	4,584,088	0	4,584,088	18,368,176	11,000,000	104,300,000
Camden	0	7,399,227	22,644,836	19,081,424	22,296,131	19,327,530	14,625,972	105,375,120	19,120,000	127,700,000
Cape May	0	0	0	0	0	0	0	0	4,000,000	32,400,000
Cumberland	0	0	0	0	0	0	0	0	0	12,400,000
Essex	0	0	0	0	2,913,000	4,500,000	0	7,413,000	43,800,000	106,700,000
Gloucester	800,000	0	0	0	0	0	0	800,000	5,150,000	15,400,000
Hudson	0	0	0	0	0	4,000,000	3,000,000	7,000,000	0	95,900,000
Hunterdon	0	0	0	0	0	0	0	0	0	0
Mercer	0	0	5,785,002	8,648,135	9,952,275	7,497,033	3,997,832	35,880,277	0	110,500,000
Middlesex	0	0	0	0	0	0	0	0	0	11,000,000
Monmouth	0	0	0	0	0	0	0	0	0	20,700,000
Morris	0	0	0	0	0	0	0	0	0	6,600,000
Ocean	0	0	0	0	0	0	0	0	0	0
Passaic	1,760,000	3,750,750	10,172,800	3,597,275	3,588,075	3,581,450	3,356,200	29,806,550	0	55,800,000
Salem	0	0	0	0	0	0	0	0	0	8,100,000
Somerset	0	0	0	0	0	0	0	0	0	0
Sussex	0	0	1,500,000	1,300,000	1,493,351	1,114,196	925,139	6,332,686	0	41,300,000
Union	0	0	0	0	0	0	0	0	11,900,000	82,700,000
Warren	0	2,501,873	6,712,256	6,828,397	6,954,579	7,080,689	6,539,626	36,617,420	5,629,000	48,000,000
TOTAL	28,660,000	15,051,850	66,136,116	62,041,231	57,412,245	52,731,645	37,028,857	319,061,944	107,349,000	1,047,100,000